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NEW THEORY AS TO PUNISHMENT OF CRIME

By HERBERT S. HADLEY,
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It is during the course of only the last ten years that the people of this country have begun to recognize the necessity of some change in our system and method of punishing those guilty of criminal offenses. We have pursued the mistaken theory of punishing the crime committed instead of dealing with the person who commits it. We punish the offense instead of trying to reform the offenders, or to correct the conditions which produce them. The result is that the population of our jails and of our penitentiaries is increasing more rapidly than the population of the country. There can be no denying the correctness of the conclusion that something is wrong with the conditions of society and of industry and with a system of punishment for crime which produces criminals relatively more rapidly than the increase in population. A continuance of such conditions unchecked must eventually result in the overthrow of organized society and of government itself. It is only within the last ten years that there has been made any effort to correct this dangerous tendency.

Missouri enjoys the doubtful distinction of having the largest penitentiary in the world; that is, we have a larger number of prisoners confined within four walls than is to be found in any other state or country. This is because the state has failed in its manifest duty to establish a state reformatory for juvenile and first offenders. The Training School for Boys at Boonville has become little more than an institution for delinquent and deficient children. The influence of those interested in prison contracts, and of those who have acted upon a false theory of economy, has, in the past, prevented the establishment of a state reformatory. The result is that there are, approximately, 600 boys twenty-two years of age and under confined in the penitentiary, daily associated with experienced criminals. After serving a term under these conditions the chances are that the young offender will follow a life of crime. The establishment of a state reformatory would not only provide a place

where these boys, most of whom are accidental or unintentional criminals, could be confined under conditions and given instruction which would have a tendency to make them useful and law-abiding members of society, but it would also help to solve the present prison labor problem.

By the act of the last general assembly there was a declaration of the intention of the state to abandon the present contract labor system.¹ Unless that policy shall be changed, which I hope will not be done, there will, during the course of the next year, when those contracts now in existence terminate, be something over 2,000 men and women in the penitentiary for whom employment must be secured. It would be inhuman and barbarous to confine them in idleness. The chief difficulty is to find some employment in which prison labor will not be brought into competition with free labor. The policy of employing convicts upon the roads is an advisable one, but, owing to conditions in this state, it is doubtful if more than a small portion of the convicts in the penitentiary can be so employed. As far as feasible the prisoners should be used in the building of public roads, and the experiment of Cole county under the act of the last legislature, will, I hope, in time, lead to the employment of an increased number of convicts in this work in other counties. The question of prison labor was quite thoroughly investigated by a special committee of the state senate of the forty-fourth general assembly, of which former Senator F. M. McDavid was chairman, and the recommendations of that committee are deserving of consideration. My suggestions upon that proposition, in addition to those already made, are:

The purchase of sufficient land for a reasonably good-sized farm, with provisions for industrial training in a state reformatory.

The making of supplies for the different state institutions and departments, in both the penitentiary and the state reformatory.

Further, I believe there should be purchased an extensive tract of land upon which convicts confined in the penitentiary can be employed. The price of farm products is controlled by world-wide

¹ The contract system, after the expiration of existing contracts, and the public account system, except in the case of binder-twine, are prohibited. The working of 300 state prisoners on state roads is allowed. Hard labor, eight hours a day, is prescribed as a means of industrial training and the production of supplies for the state and political subdivisions, including all the public offices and institutions, together with building material therefor, is authorized. Beginning April 1, 1912, at least 300 convicts shall be added each year to the number thus employed until all are employed. *Laws 1911, S. B. 23.*

conditions and prison labor thus employed would not be brought into competition with free labor. Such labor would also have a tendency to improve the physical health of the prisoners and that in time will also tend to improve their intellectual and moral health.

In addition, I believe there should be established at all state institutions possible a plant for the production of ground limestone for fertilizing purposes. While there are a number of private concerns manufacturing this product, which would doubtless object to this plan, the freight rates and the low cost of this product are such as to make its shipment for long distances practically prohibitive. The value of ground limestone as a fertilizer of soil has been conclusively demonstrated.

I believe that an investigation of the management of the penitentiary and the treatment of those confined there during the last four years will show that as good results have been secured as were possible under existing circumstances. The physical condition of the penitentiary has been greatly improved. With a slight increase in cost there has been a marked improvement in both the quality and the variety of the food, with a considerable improvement of the health and disposition of the inmates and the lack of the necessity of discipline and punishment. The records show that the cases of sickness during this time are far less than during any similar previous period. And I am assured by Captain Porter Gilvin, who has been connected with the penitentiary for over twenty years and who for seven years as deputy warden has had charge of the discipline, that the number of cases of punishment during the course of the last four years has decreased over fifty per cent. Stripes have been abolished and a suitable uniform substituted. The guards have been uniformed and special instructions as to the duties of their position have been given. Corporal punishment has been practically discontinued. No outbreaks or acts of general insubordination have occurred during that time, although in former times they were not infrequent. I heard the statement made by Major McClaughry, the warden of the federal prison at Leavenworth, Kan., one of the best informed men on prison conditions in the country, that as much improvement had been made in the conditions in the Missouri penitentiary as was possible to have been made within that length of time.

Further improvement, however, demands a change in condi-

tions. One of the most important improvements demanded by conditions in the penitentiary is a tuberculosis hospital or building in which the prisoners afflicted with tuberculosis can be confined.

I have given thus somewhat in detail and at length the facts as to prison conditions and as to the policy that has been pursued by me in the granting of executive clemency, not so much to justify the course that I have pursued, or to answer the criticisms that have been directed against it, as to suggest needed changes in dealing with the problem of punishment of crime and the prison labor problem in this state. The policy that I have pursued has been absolutely necessary from the standpoint of the public welfare in the absence of a board of pardons and paroles and a state reformatory.

The chief executive should, however, be relieved from the burden and responsibility of dealing with these cases. By virtue of his position he is generally regarded as the leader of the political party that nominated and elected him. For this reason he is peculiarly subject to and liable to unwarranted and malicious attacks by sensational and unscrupulous newspapers for granting executive clemency to those convicted of crime. And it is easy, by a failure to publish the facts upon which clemency in each case was based, to mislead and to prejudice the public mind against a proper policy of executive clemency. If this work was done by a board of pardons and paroles, the decision of such a board would assume something of the form of a judgment of a court. And, in addition to providing a better and a more complete investigation of the merits of the different applications, such a board would be to a large extent exempt from unwarranted attacks and misrepresentations to which a governor is liable to be subjected. I also believe that such a board should have the control and management of the penitentiary and the other penal and reformatory institutions of the state, together with the power of appointing the warden or superintendents of these institutions. Under the control of such a board these institutions could be more effectively and economically managed, and the members of the board would thus be better informed and better qualified to deal with the question of clemency of those confined in such institutions.

By the adoption of each and all of the suggestions herein made I do not, of course, expect that the commission of crime in this state can be brought to an end, or that there will at once be any

appreciable diminution in the number of offenses against the law. But in the course of a period of years such a policy, if pursued in this and other states, will of necessity bring about a correction of the present alarming increase of crime in this country. And what will happen if this tendency is not checked is easy to foresee. The system of punishment that has been pursued in this state, and, until recently, generally in this country, has in a great majority of cases sent forth from prison those who have been confined there broken physically, mentally and morally, and worse enemies of society than when their punishment began. Such a system is clearly a wrong one. No system of punishment, in fact, is justifiable or a benefit to society unless those punished are at the end of their confinement better men physically, mentally and morally, and less enemies of society than when their punishment began.